

TO: Assessing Officers and Equalization Directors
FROM: State Tax Commission

No. 15 - August 31, 1983
School Taxes, Summer Collection

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

MUNICIPAL CORPORATIONS: Collection of penalty for summer school taxes collected after August 31

TAX COLLECTION: Imposition of penalty for payment of summer school taxes collected after August 31

A city collecting summer school taxes for a school district on a date other than the date it collects city taxes may not impose a penalty of four percent on summer school taxes collected after August 31, since such taxes may be paid on or before September 14 without payment of interest or penalty.

Opinion No. 6181

Honorable Jack E. Kirksey
State Representative
The Capitol
Lansing, Michigan

AUG 23 1983

You have requested my opinion whether a city collecting summer taxes for a school district on a date other than the date it collects city taxes may impose a penalty of four percent on summer school taxes collected by the city after August 31. The School Code of 1976, 1976 PA 451; MCLA 380.1 et seq; MSA 15.4001 et seq, § 1611(3), authorizes a city which did not collect city taxes in the summer to agree to collect summer school taxes.

1976 PA 451, § 1611, supra, as amended by 1981 PA 87, in pertinent part, provided:

"School taxes collected by a city shall become a lien against the property on which assessed in the same manner and on the same date as city taxes or, if the city approves the collection of school taxes on a date other than the date it collects the city taxes, on July 1. The school taxes

which are collected with the city taxes shall be subject to the same penalties, interest, and collection charges as city taxes and shall be returned as delinquent to the county treasurer in the same manner and with the same interest, penalties, and collection fees as city taxes are returned. School taxes collected pursuant to this section on or before August 31 of each year by a city that approves the collection of school taxes on a date other than the date it collects city taxes shall be without penalty, but such taxes collected after August 31 in each year shall bear a penalty of 4%. All interest and penalties attributable to school taxes other than collection fees shall belong to the school district or intermediate school district. The collection fees shall be retained by the city. All interest, penalties, and collection fees added to the school taxes upon being returned delinquent to the county treasurer shall belong to the school district or intermediate school district upon collection by the county treasurer." (Emphasis added)

Subsequently, 1976 PA 451, § 1611, supra, was further amended by 1982 PA 333. 1982 PA 333 struck the date of August 31 and substituted September 14. 1982 PA 333 also struck the provision that taxes paid after the date established bear "a penalty of 4%" and substituted a provision that such taxes shall bear "interest at the rate imposed by section 59 of Act No. 206 of the Public Acts of 1893, being section 211.59 of the Michigan Compiled Laws, on delinquent property tax levies which became a lien the same year. . . ." 1893 PA 206, § 59; MCLA 211.59; MSA 7.103, provides for interest of one percent per month on delinquent tax levies.

You raise the question whether a city, based on its agreement with a school district, may nonetheless impose a penalty of four percent on summer school taxes collected after August 31.

It is a well-settled rule of statutory construction that:

"[w]here a section of a statute is amended, the original ceases to exist and the section as amended supersedes it and becomes a part of the statute for all intents and purposes as if the amendment had always been there;

Balog v Knight Newspapers, Inc, 381 Mich 527, 539; 164 NW2d 19 (1969)


An agreement between a city and a school district regarding the collection of summer school taxes pursuant to 1976 PA 451, § 1611, supra, must conform with the statute. Such an agreement does not affect a taxpayer's liability because there is no power to impose taxes or penalties except by statutory authority.

The law is well settled that "[t]ax exactions, property or excise, must rest upon legislative enactment, and collecting officers can only act within express legislative authority conferred by law. . . ." (Emphasis added.) Re Dodge Bothers, 241 Mich 665, 669; 217 NW 777 (1928); Consolidated Paper Co v Department of Revenue, 306 Mich 216, 221; 10 NW2d 833 (1943); Fidlin v Collison, 9 Mich App 157, 162; 156 NW2d 53 (1967), lv den, 380 Mich 761 (1968).

The legislative enactment applicable to the levy and collection of 1983 summer school taxes is 1976 PA 451, § 1611, supra, as amended by 1982 PA 333. There is no authority for the levy and collection of taxes on any other basis and no agreement between a city and school district may supply such authority.

It is my opinion, therefore, that a city collecting summer taxes for a school district on a date other than the date it collects city taxes may not impose a penalty.

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August 31 since taxes collected on or before September 14
shall be without interest or penalty.


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